

**JOINT MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE OFFICES OF THE
FEDERAL HIGHWAY ADMINISTRATION (FHWA)
AND THE
FEDERAL TRANSIT ADMINISTRATION (FTA)
FOR ADMINISTRATION OF TRANSPORTATION
PLANNING AND PROGRAMMING IN THE
FTA REGION SIX AREA**

Our Region has a long history of cooperation between FHWA and FTA staffs in the delivery of the two agencies' programs. This agreement for the coordination of program matters is an example of the agencies' cooperative efforts. The agreement, originally executed in 1991, prior to the passage of Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), has undergone several revisions in response to our customers' need for more streamlined Federal actions on the Unified Planning Work Program (UPWP), Transportation Improvement Program (TIP), Statewide Transportation Improvement Program (STIP), Metropolitan and Statewide Planning Findings, Certification of the Transportation Planning Process, Congestion Management Systems (CMS) and Intelligent Transportation Systems (ITS), Air Quality Conformity Findings, and Corridor Studies/Alternatives Analysis. This agreement is intended to strengthen the already strong working relationship of the two agencies in their efforts to fulfill the mutual responsibility for transportation planning and the programming of Federal funds. It is also meant to achieve maximum staff efficiencies through the elimination of duplicative reviews and actions thereby improving the quality of assistance to our customer's expectations, and improving our delivery of oversight responsibilities insofar as timeliness and consistency.

The FTA and the FHWA mutually agree to the following procedures for transportation planning activities in the FTA Region 6 areas (Arkansas, Louisiana, New Mexico, Oklahoma and Texas). Additionally, all parties agree to the tracking of performance measures as outlined in attachment A.

A. Review and Approval of Unified Planning Work Programs (UPWP)

Background

Section 134 of 23 U. S. C. establishes Federal requirements for metropolitan transportation planning. The regulations for implementing these provisions are contained in 23 C.F.R 450 and 49 C.F.R. 613 and include the requirement for submission of the UPWP.

Procedures

All UPWPs will be submitted by the State DOT to the FHWA Division Office and FTA Regional Office. Review, reconciliation of comments and action on the UPWPs will be accomplished within 30 days of receipt by FHWA and FTA.

Except for West Memphis, all Transportation Management Area (TMA) UPWPs will be concurrently reviewed by the FHWA Division and the FTA Regional Offices. The FHWA Division and FTA Regional staffs shall meet or teleconference as necessary to discuss and resolve any comments relevant to providing a joint response. The FHWA Division will prepare the draft letter and transmit it to the FTA Regional Office. The approval will be issued as a joint FTA Region/FHWA Division letter. The signatories may be as delegated for approval of the UPWP.

The FHWA Division will act as the Executive Agent for FTA for the review and approval of the UPWPs for all non-TMAs and for the West Memphis, Arkansas TMA. The FHWA Division shall consult with the FTA Region on unusual or potentially controversial transit related studies. The FTA Regional staff will advise the FHWA Division of any concerns within two weeks of receipt of the UPWP. The FHWA Division will provide the FTA Region with a copy of all UPWP approvals and correspondence. Any revisions to the UPWPs will be handled in a similar manner.

B. Approval of Statewide Transportation Improvement Programs (STIP)

Background

Section 135 of Title 23 U.S.C. establishes Federal requirements for statewide transportation planning. The regulations, 23 C.F.R 450 and 49 C.F.R 613, require that at least every two years the State will submit their proposed STIP to the FHWA and the FTA for joint approval prior to the obligation of Federal funds made available to the State under Title 23 and the Federal Transit Act. These regulations also require that the State include with their proposed STIP a certification that the transportation planning process is being carried out in accordance with the requirements listed in the regulations.

Procedures (STIP)

The State will submit their proposed STIP to the FHWA Division Office and FTA Regional Office for review and approval. The STIP shall be reviewed for compliance with the requirements of Section 135 and the regulations in 23 C.F.R 450. This joint review shall include, but not be limited to, the requirements on air quality conformity, public involvement, fiscal constraint, inclusion of all Title 23 and Federal Transit Act funded projects including metropolitan and Federal Lands TIPs, and the acceptability of the State's certification that the transportation planning process is being carried out in accordance with all applicable requirements of §450.220(a).

The FHWA Division and the FTA Regional Office shall meet or teleconference as necessary to discuss and resolve any comments relevant to providing a joint approval of the State's STIP. This joint review effort will be documented in the form of a "Joint Record of Review" compiled by the FHWA Division Office and processed as outlined in the section of this agreement pertaining to TIP Federal findings. This "Joint Record of Review" shall form the official record

documenting the FHWA/FTA joint review efforts on the STIP. The FTA Regional Administrator and the FHWA Division Administrator (or their designee), will take joint action as described by 23 C.F.R 450.220 based on the comments listed in the "Joint Record of Review." A draft action letter will be prepared by the FHWA Division Office and sent to the FTA Regional Office for coordination. Notification of the action taken for the STIP will be forwarded to the State by the FHWA Division Administrator. Initial STIP comments will be prepared by U.S. DOT within 30 days of receiving the STIP. Final action by U.S. DOT on the STIP will be within 60 days after receiving the STIP from the State assuming initial comments have been addressed.

(STIP Amendments)

Depending on the nature of the proposed STIP Amendment, the STIP Amendment may be acted upon jointly by FHWA and FTA in a manner similar to that described above, or it may be acted upon unilaterally by either FHWA or FTA. If the amendment is for highway projects only, then FHWA will take unilateral action. If the amendment is for transit projects only, then FTA will take unilateral action. For unilateral actions, the State DOT will submit the STIP amendment only to the appropriate Federal agency for action.

C. Federal transportation planning finding for TIPs

Background

23 C.F.R 450.320 requires a joint Federal finding that the TIP for each metropolitan planning area is the product of a continuing, comprehensive transportation planning process carried on cooperatively by the State, Metropolitan Planning Organization (MPO), and transit operator, in accordance with 23 U.S.C. 134 and 49 U.S.C. 5303 of the Federal Transit Act. The finding shall be based on the self-certification by the State and the MPO under 23 C.F.R 450.334 and upon other reviews as deemed necessary by FHWA and FTA.

Procedures

For each metropolitan planning area, the FHWA Division Office and the FTA Regional Office will review the status of the transportation planning process prior to approval of the STIP. The review shall include, but not be limited to, the State/MPO self-certification required by 23 C.F.R 450.334(a), the existence of an approved transportation plan that appropriately addresses the planning factors, the adequacy of the public involvement process, the reasonableness of the financial plan, relationship of projects in the TIP to long range transportation plan, air quality conformity of transportation plans and TIP, and satisfaction of the Congestion Management System (CMS) requirements in carbon monoxide (CO) and ozone non-attainment TMAs.

In a TMA designated as non-attainment for CO and/or ozone, the CMS shall provide an appropriate analysis of all reasonable (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in capacity for single occupancy vehicles (adding general purpose lanes to an existing highway or constructing a new highway) is proposed.

The FHWA Division Office and the FTA Regional Office will evaluate each metropolitan planning process based on previous reviews, attendance at meetings, review of the UPWP, discussions, etc. A Joint Record of Review will be prepared by the FHWA Division Office. The FHWA Division Office will sign the Joint Record of Review and forward the document to FTA.

The FTA will concur, concur with additional comments, or advise the FHWA Division Office of any significant concerns. The FHWA Division and FTA Regional Offices shall meet or teleconference as necessary to discuss and resolve any significant concerns relevant to the joint finding. The FTA will sign the Joint Record of Review and return the document to the FHWA Division Office for distribution. This Joint Record of Review shall form the official record documenting the joint review efforts on the transportation planning process necessary for the FHWA/FTA finding that the TIPs contained in the STIP for the State are based on a continuing, comprehensive, transportation planning process carried on cooperatively by the States, MPOs, and transit operators, in accordance with the provisions of 23 U.S.C. 134 and 49 U.S.C. 5303 of the Federal Transit Act.

D. Air Quality conformity reviews and conformity determinations for Metropolitan Transportation Plans (MTPs) and Transportation Improvement Programs (TIPs) in metropolitan planning areas designated non-attainment or maintenance under the Clean Air Act.

Background

Section 176(c) of the Clean Air Act established conformity requirements for metropolitan transportation plans, TIPs, and projects in areas designated as non-attainment or maintenance. Section 176(d) of the Clean Air Act established priority requirements for programs supported by the Federal Government in order to provide for timely implementation of eligible portions of air quality plans. Section 109(j) of 23 U.S.C. established consistency requirements to assure that highways are consistent with approved plans for air quality.

Procedures

The FHWA will serve as Executive Agent for FTA on all actions, reviews and meetings required to fulfill their mutual responsibility for Air Quality Conformity Findings. FHWA Division Offices will conduct reviews of conformity determinations for plans, TIPs and amendments, and provide guidance to the States and MPOs. When the review of conformity determinations for Transportation Plans and TIPs has been completed by the MPO and State DOT; the State DOT will provide U.S. DOT and Environmental Protection Agency (EPA) with copies of the conformity determinations along with plans and/or programs and other pertinent documents. EPA will normally be given 30 days for their review and comment. U.S. DOT will meet or teleconference with EPA as necessary to resolve pertinent comments that may result from the concurrent reviews. The FHWA Division Administrator (or designee) will make a conformity finding upon completion of the review by U.S. DOT and resolution of pertinent comments by

EPA. Information copies of all Air Quality conformity actions and correspondence will be provided to the FTA Regional Office and the EPA Regional Office. FHWA Division offices will keep the FTA Region office informed of the progress and relevant issues during the conformity review process.

E. Certification of Transportation Management Area (TMA) Transportation Planning Process

Background

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and The Transportation Equity Act for the 21st Century (TEA-21) requires a joint FHWA/FTA certification of the transportation planning process for all Transportation Management Areas (TMAs) at least every three years. A joint certification review along with other documentation and site visits is the basis used for determining that the transportation planning process in a TMA meets or substantially meets the requirements of 23 C.F.R Part 450.

Procedures

The certification review of all TMAs will be a joint effort between the two agencies. A review team consisting of FHWA Division and FTA Regional Office personnel will be identified for each review. If necessary, other technical expertise will be added to the team. Either the FHWA Division or FTA Regional Office representative will be designated as the lead or co-lead for the review. The lead or co-lead agency will be responsible for scheduling the review, obtaining the material for the desk audit, logistics for the review, preparation of the agenda, determining the lead for the topics to be discussed, closeout after the review, preparation of the draft report, circulation to other Federal team members for comments, external circulation of the report to MPO, transit operator, State DOT, and other appropriate participants for review of factual accuracy.

Assignment of lead or co-lead agency responsibility will be determined based upon an evaluation of staff workload, modal interest and the complexity of the issues in an individual TMA. The schedule and assignments for certification reviews will be developed by the FTA Regional and FHWA Division Offices by July 1st for the next fiscal year. Topics for the on-site review will be developed jointly by FHWA and FTA, based on emphasis areas and issues of concern in the specific TMA including (at a minimum) the items in this MOA as well as CMS and ITS.

Certification of the TMAs will be by the FTA Regional and the FHWA Division Administrators. The final report (certification) of the review will be completed within 90 days of the on-site visit. The presentation of findings will be done jointly by FHWA and FTA, and will take place within 60 days of the issuance of the final report or at the next MPO policy committee meeting.

F. Corridor Studies/Alternatives Analysis

Background

All major transportation investments must emerge from a multimodal transportation planning process in order to be eligible for Federal funding. As part of the planning process, local project sponsors may perform a corridor level analysis of mode and alignment alternatives in corridors for which projects may be proposed. Corridor studies/alternatives analysis is a key planning tool undertaken within the multimodal metropolitan and statewide planning processes, supplemented by subsequent project development analyses, for determining appropriate solutions to transportation challenges.

Procedures

Each agency will participate in a corridor study/alternatives analysis until modal issues are clear and/or a DOT lead agency can be determined by agreement between the two agencies. Either agency may serve as DOT lead, dependent upon the issues involved and the relative predominance of the mode. The environmental work will remain with the identified modal agency. If an agency determines that there are no reasonable alternatives involving their modal interest, the agency may advise the study/analysis sponsor that the other party to this agreement will serve as DOT lead for the remainder of the study. Regardless of which U.S. DOT agency serves as lead for the study, every effort will be made to link planning and National Environmental Policy Act of 1969 as well as striving to streamline the environmental process.

G. Consolidated Planning Grant and Electronic Signatures

The Consolidated Planning Grant (CPG) is a joint effort by the FHWA and FTA to create a single federal grant process for the respective transportation planning programs, thereby streamlining the administrative process to our customers. In FY 2004, FTA Region 6 has one CPG, which is in the state of Arkansas, and is administered by FTA. All parties agree to revisit the CPG concept in each respective state, and work towards implementing additional CPGs within Region 6.

Likewise, all parties to this agreement are in favor of implementing electronic signatures for all appropriate planning products, thereby further streamlining the planning process for our customers. A task force will be formed to research the requirements of having electronic signatures.

This agreement may be canceled by mutual agreement of all parties or by a 30-day written notification of any signatory.

Robert C. Patrick
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Federal Transit Administration

C. D. (Dan) Reagan
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Federal Highway Administration

William A Sussmann
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Sandra L. Otto
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Attachment A – Tracking Performance Measures

Planning Topic	Lead Agency	Performance Measure	Actual Performance Measure
UPWP	FHWA/FTA	30 days	
STIP	FHWA/FTA	30 days – Initial Comments	
STIP	FHWA/FTA	60 days – Final Approval	
TIP Planning Findings	FHWA/FTA	60 days (concurrent with STIP approval)	
Certification Reviews – Final Report	FHWA/FTA	90 days from on-site review	
Certification Review – Presentation	FHWA/FTA	Within 60 days of final report	